

This letter explains why political subdivisions of this State are subject to Electricity Excise Tax and Telecommunications Tax liability. See 86 Ill. Adm. Code 511.150. (This is a GIL.)

September 19, 2003

Dear Mr. Xxxxx:

This letter is in response to your letter dated April 1, 2003. We apologize for the delay in responding to your inquiry. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

NAME tax exemption certificate number pays State and Municipal taxes on the UTILITY and Telecom billing by the vendors.

Under Title 86 Part 511 Section 511.150 all State of Illinois and any other state or local government is subject to tax under the Electricity Excise Tax Law.

NAME question:

1. Can NAME obtain a credit or refund on it's State of Illinois tax filing(s) for the State and Municipal taxes paid for electricity with UTILITY?
2. How can NAME obtain a refund on it State and Municipal taxes paid on telecommunications paid?

Please fax me or call.

DEPARTMENT'S RESPONSE:

The Electricity Excise Tax Law (35 ILCS 640/1 et seq.) imposes a tax upon the privilege of using in this State electricity purchased for use or consumption and not for resale, other than by municipal corporations owning and operating a local transportation system for public service. The tax is collected from the user by the user's delivering supplier. As you have noted, Section 511.150(a) makes it clear that the State of Illinois and any other state or local government is subject

to tax under the Electricity Excise Tax Law. See 86 Ill. Adm. Code 511.150. Section 2-3(c) of the Electricity Excise Tax Law defines a "person" subject to tax as "any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, or any city, town, village, county, or other political subdivision of this State." (emphasis added). The NAME is considered a political subdivision of this State and is subject to tax under the Electricity Excise Tax Law. See 35 ILCS 640.2-3(c).

Therefore, we do not understand your question regarding how to obtain a credit or refund for State Electricity Excise Tax. Please note that any issue regarding the overpayment of tax must be made with the delivering supplier who collects the tax from the customer. The Department does not administer municipal electricity taxes and any questions regarding those types of taxes should be addressed to the appropriate municipality.

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charge for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495.140(a). The only exemptions provided for Telecommunications Excise Tax is for State Governments and State universities created by statute. See 86 Ill. Adm. Code 495.105. Beginning on January 1, 2003, the Simplified Municipal Telecommunications Tax Act allows municipalities to impose simplified municipal telecommunications taxes on the same tax base as the State Telecommunications Excise Tax. 35 ILCS 636/5-20. The Simplified Municipal Telecommunications Tax is collected and administered by the State. Prior to this tax, various municipal telecommunications related taxes were administered by the municipalities themselves. Again, the definition in both of these acts for "person" subject to tax includes political subdivisions of this State. See 35 ILCS 630/2(i) and 35 ILCS 636/5-7. Since there is no exemption from these taxes applicable to the NAME, we do not understand your question regarding how it can obtain a refund for State and municipal telecommunications taxes. Please note that any questions regarding municipal taxes in regards to telecommunications paid prior to January 1, 2003 should be addressed to the appropriate municipalities imposing such taxes.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk